

Message Text

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ACTION IO-13

INFO OCT-01 EUR-12 ISO-00 L-03 CIAE-00 COME-00 DODE-00
DOTE-00 EB-07 FMC-02 INR-07 NSAE-00 CG-00 DLOS-09
OES-07 AF-10 ARA-10 EA-09 NEA-10 OIC-02 EPA-04
/106 W

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R 021114Z MAY 77
FM AMEMBASSY LONDON
TO SECSTATE WASHDC 3310

UNCLAS SECTION 01 OF 02 LONDON 07105

E.O. 11652: N/A
TAGS: EWWT, PORG, IMCO
SUBJECT: FIRST WEEK, 32ND SESSION, IMCO LEGAL COMMITTEE

1. SUMMARY: FIRST WEEK OF IMCO LEGAL COMMITTEE DELIBERATIONS LARGELY DISPOSED OF AGENDA ITEMS FOR TWO WEEK SESSION. DRAFTING BEGUN ON PROPOSED PROTOCOL TO EXTEND 1969 CIVIL LIABILITY CONVENTION. COMMITTEE GAVE PRELIMINARY REVIEW TO BROAD OUTLINES OF FUTURE CONVENTION ON CIVIL LIABILITY FOR HAZARDOUS OR POLLUTING SUBSTANCES. END SUMMARY.

2. SEARCH AND RESCUE: LEGAL COMMITTEE RAPIDLY COMPLETED DISCUSSION OF LEGAL ISSUES RAISED BY DRAFT CONVENTION ON MARITIME SEARCH AND RESCUE (SAR). COMMITTEE'S PRINCIPAL CONCLUSION WAS THAT PROVISIONS CONTAINING BASIC OBLIGATIONS OF PARTIES TO PROVIDE SAR SERVICES AND TO COOPERATE WITH OTHER PARTIES IN SAR ACTIVITIES SHOULD BE MADE SUBJECT TO EXPLICIT AMENDMENT PROCEDURE RATHER THAN TACIT AMENDMENT PROCEDURE. SOVIET DELEGATION URGED THAT ARTICLE 3.1.2 (RELATING TO ENTRY INTO TERRITORIAL SEA OF ANOTHER PARTY TO CARRY ON SAR ACTIVITIES) BE TIGHTENED TO REMOVE POSSIBLE IMPLICATION OF PRESENT TEXT THAT COASTAL STATES SHOULD PERMIT SUCH ENTRY, BUT ISSUE NOT DISCUSSED FURTHER.
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PRESENT SAR TEXT DOES NOT ADDRESS ALLOCATION OF AREAS OF RESPONSIBILITY FOR SAR ACTIVITIES BEYOND THE TERRITORIAL SEA, BUT DELEGATION UNDERSTANDS THAT MATTER WILL BE DISCUSSED DURING MAY MEETING OF SAR EXPERTS.

3. EXTENSION OF CIVIL LIABILITY CONVENTION: AFTER DAY LONG DISCUSSION, MOST PARTIES TO CONVENTION SUPPORTED

PREPARATION OF A PROTOCOL EXTENDING THE LIABILITY CONVENTION TO POLLUTION DAMAGE CAUSED BY NON-PERSISTENT OILS, AND ALSO COVERING DAMAGE FROM DISCHARGES FROM BUNKERS AND SLOP TANKS OF EMPTY TANKERS. SOME DELEGATIONS (NORWAY, LIBERIA, USSR) ALSO ENDORSED IDEA OF EXTENDING CLC TO COVER DISCHARGES FROM BUNKERS OF NON-TANKERS WHEN BUNKERS WERE VERY LARGE; LIBERIA PROPOSED A THRESHOLD OF 2,000 TONS FOR BUNKERS. NORWAY, CANADA AND OTHERS RAISED POSSIBILITY OF ALSO EXTENDING LIABILITY CONVENTION TO COVER POLLUTION OCCURRING IN AREAS OF EXTENDED FISHERIES JURISDICTION, BUT CONSENSUS WAS THAT GEOGRAPHICAL EXTENSION TOO DIFFICULT TO CONSIDER UNTIL EVENTUAL LOS OUTCOME KNOWN. THERE WAS GENERAL OPPOSITION TO EXTENDING CLC TO COVER FIRE AND EXPLOSION DAMAGE, AND RELUCTANCE TO CONSIDER ANY POSSIBLE EXTENSIONS OF 1971 FUND CONVENTION. MOST DELEGATIONS ALSO OPPOSED ANY EXTENSION OF COMPULSORY INSURANCE PROVISIONS OF LIABILITY CONVENTION.

4. USDEL EXPLAINED THAT LIABILITY AND FUND CONVENTIONS NOT INCLUDED IN PRESIDENTIAL MARINE POLLUTION INITIATIVE, AND THAT ADMINISTRATION HAD PROPOSED COMPREHENSIVE LEGISLATION WHICH DID NOT INCORPORATE CONVENTIONS. USDEL NOTED LOW LIMITS OF LIABILITY AS MAJOR US PROBLEM WITH CONVENTIONS, AND SUGGESTED CONSIDERATION BE GIVEN TO RAISING LIMITS IN ANY WORK ON AN EXTENSION PROTOCOL. AUSTRALIA AND CANADA AGREED THAT LIMITS SHOULD BE RAISED; NEITHER HAS RATIFIED LIABILITY AND FUND CONVENTIONS, PARTIALLY

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OES-07 AF-10 ARA-10 EA-09 NEA-10 OIC-02 EPA-04
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BECAUSE OF LOW LIMITS. AMONG PARTIES TO LIABILITY CONVENTION, ONLY NETHERLANDS AGREED THAT LIMITS MIGHT BE RAISED TO TAKE ACCOUNT OF INFLATION BETWEEN 1969 AND ENTRY INTO FORCE OF NEW PROTOCOL. LIBERIA INSISTED THAT INCREASE OF LIMITS WOULD REQUIRE DEMONSTRATION THAT CURRENT LIMITS INADEQUATE TO MEET CURRENT CASUALTIES; UK AND USSR FIRMLY AGAINST ANY INCREASE. US NOTED IT MIGHT MAKE FUTURE PROPOSALS RESCENDING LIMITS.

5. A SMALL DRAFTING COMMITTEE PREPARED ALTERNATIVE TEXTS OF PROVISIONS TO EXTEND LIABILITY CONVENTION TO PERSISTENT OILS TO BUNKERS AND SLOP TANKS OF EMPTY TANKERS, AND TO LARGE BUNKERS OF OTHER SHIPS. THIS PAPER WILL BE DISCUSSED FURTHER DURING SECOND WEEK OF LEGAL COMMITTEE.

6. NEW CONVENTION ON LIABILITY FOR HAZARDOUS POLLUTING SUBSTANCES (HPS): COMMITTEE HAD PROTRACTED DISCUSSION OF SCOPE OF A NEW LIABILITY CONVENTION IN THIS AREA, BUT MOST DELS WERE NOT WELL PREPARED, AND FEW CONCLUSIONS REACHED. NETHERLANDS, FRENCH, AUSTRALIA, CANADA AND SCANDINAVIANS MOST INTERESTED IN PRESSING AHEAD WITH DEVELOPMENT OF A NEW CONVENTION; UK, LIBERIA, USSR QUESTIONED NEED AND UNCLASSIFIED

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PRACTICAL BENEFIT OF THE EFFORT. SEVERAL DELS CITED LIQUIFIED NATURAL GAS AND AMMONIUM NITRATE AS SPECIFIC EXAMPLES OF HIGHLY DANGEROUS SUBSTANCES REQUIRING SPECIAL LIABILITY REGIME, BUT NO OTHER SPECIFIC SUBSTANCES DISCUSSED. MANY DELS LAMENTED THE ABSENCE OF ADEQUATE TECHNICAL INFORMATION TO IDENTIFY OTHER SUBSTANCES WHICH SHOULD BE COVERED. FRENCH, DENMARK AND GDR PROPOSED NEW LIABILITY REGIME IMPOSING STRICT LIABILITY ON ALL ENVIRONMENTAL DAMAGE CAUSED BY DISCHARGE OF ANY SUBSTANCES WHATSOEVER, TOGETHER WITH STRICT LIABILITY FOR FIRE AND EXPLOSION DAMAGE CAUSED BY A FEW SUBSTANCES POSING GREATEST RISKS (LNG AND AMMONIUM NITRATE). LEGAL COMMITTEE WILL HOLD FURTHER DISCUSSION NEXT WEEK REGARDING ADDITIONAL PREPARATORY WORK BY GOVERNMENTS REQUIRED IN DEVELOPING ANY NEW CONVENTION.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: POLLUTION, LAW, COMMITTEE MEETINGS, PLANNING MEETINGS
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Enclosure: n/a
Executive Order: N/A
Errors: N/A
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Office: ACTION IO
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Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
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Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2332841
Secure: OPEN
Status: NATIVE
Subject: FIRST WEEK, 32ND SESSION, IMCO LEGAL COMMITTEE
TAGS: EWWT, PORG, IMCO
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/7a41e287-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009